

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 24305 of 2004

Between:

R.Chowkla Naik, S/o.Lakshma Naik, Fair Price Shop Dealer
Basinepalli Thanda (V) Gooty(M) Anantapur District.

..... PETITIONER

AND

- 1 The Joint Collector, Anantapur, Anantapur District.
- 2 The Revenue Divisional Officer, Anantapur, Anantapur District.
- 3 The Mandal Revenue Officer, Gooty, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of mandamus declaring the action of 1st respondent in not disposing of the appeal which is filed by before him against the orders of the 2nd respondent passed in Rc.No.D1/CS/1294/2004 Dt.16.9.2004 and the action of the 2nd respondent in not completing the enquiry initiated by him as illegal, arbitrary and consequently direct the 2nd respondent to complete the enquiry as expeditiously as possible and further direct the respondents to continue the petitioner as FP Shop dealer of Basinepalli thanda village, Gooty (M) at Anantapur District pending disposal of enquiry before the 2nd respondent.

Counsel for the Petitioner:MR.N.CHANDRA SEKHAR REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner is a fair price shop dealer. He was selected under the category reserved in favour of schedule tribes. His authorisation was suspended through a show cause notice-cum-suspension order dated 16-09-2004, on the allegation that he has been collecting Rs.0.25 ps. per kg. of rice and Rs.0.50 ps. per liter of kerosene, over and above the stipulated price, he was supplying kerosene one liter less than the entitlement, and the rice under A.A.Y. scheme was also supplied in lesser quantities to the card holders.

The petitioner preferred an appeal before the first respondent, together with an application for stay. His grievance is that the first respondent has not passed any order either in the appeal or in the stay petition so far and seeks appropriate directions from this Court.

Heard learned counsel for the petitioner, learned Government Pleader for Civil Supplies and Sri K.Srinivas, counsel, representing certain card holders, who sought to get themselves impleaded.

The authorisation of the petitioner was suspended through the impugned order, on three allegations. The petitioner had submitted his explanation immediately and thereafter preferred an appeal before the first respondent, together with an application for stay. It is represented that the first respondent has not passed any order in the stay petition so far. More than three months have elapsed. Virtually, the very purpose of filing an application for stay is defeated. Within this time, either the second respondent could have disposed of the proceedings against the petitioner or the first respondent could have disposed of the appeal. It was in this context that a Division Bench of this Court in ***JOINT COLLECTOR, KUNOOL v A.NEELIMA*** held

that except where extraordinary circumstances exist, the suspension of authorisation of a fair price shop dealer cannot be continued beyond 90 days.

Further, the suspension of authorisation of the petitioner is not ordered as a measure pending enquiry. The impugned order states that it is suspended and thereby it has to be inferred as a measure of penalty. Such an order can be passed only after following the procedure prescribed under Clause 5(4) of the Andhra Pradesh Public Distribution System Control Order 2001.

For the foregoing reasons, the writ petition is allowed and the order of suspension passed against the petitioner is set aside. The second respondent is directed to conclude the proceedings initiated against the petitioner without any further loss of time. Since the order of suspension is set aside, the appeal pending before the first respondent has become infructuous and he does not have to pass any orders. No order as to costs.

29-12-2004

kdl

To

- 1 The Joint Collector, Anantapur, Anantapur District.
- 2 The Revenue Divisional Officer, Anantapur, Anantapur District.
- 3 The Mandal Revenue Officer, Gooty, Anantapur District.
- 4 Two CCs to the Government Pleader for Civil Supplies, A.P.High Court Buildings, Hyderabad (OUT).
- 5 Two CD copies.

